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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,251	02/09/2004	Gordon William Pritchard	63215-0001	4312
33797 7590 11/10/2008 MILLER THOMPSON, LLP Scotia Plaza 40 King Street West, Suite 5800 TORONTO, ON M5H 3S1 CANADA				
EXAMINER				
MILLER, ALAN S				
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3624				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,251

Applicant(s)

PRITCHARD ET AL.

Examiner

ALAN MILLER

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the application filed 2/9/2004 claiming benefit back to 2/9/2003. Claims 1-10 are pending and have been examined, 11-30 are withdrawn.

Election/Restrictions

2. Claims 11-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/23/2008.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims **1-10** are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the

subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, in claim 1, applicant's method steps, providing access and enabling, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus. Thus, claims 1-10 are non-statutory since they may be preformed within the human mind.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 5, 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al. (U.S. Patent Pub. 2004/0111310, hereinafter Szlam).

7. In respect to claim 1, Szlam discloses:

(a) Providing access to a remote agent network to one or more client users; (see at least FIG 1, ¶0024, ¶0025, ¶0060)

(b) Providing access to the remote agent network to a plurality of remote agents (see at least FIG 1, ¶0035); and

(c) Enabling the one or more client users by operation of the remote agent network to (i) Recruit one or more remote agents from the plurality of remote agents for selection for a client user dedicated pool from the plurality of remote agents (ii) select the client user dedicated pool;

and (iii) directly manage the provision of service communications by the client user dedicated pool via the remote agent network (see at least ¶0045, wherein Szlam discloses contact center has a need for ten agents (*i.e. recruit one or more remote agents from the plurality of remote agents for selection for a client user dedicated pool from the plurality of remote agents*), the RAC (remote agent center) will assign ten such remote agents (*i.e. Select the client user dedicated pool*), thus the CC (contact center) is still in complete control of its business .. and over the agents assigned from the RAC (*i.e. directly manage the provision of service communications by the client user dedicated pool via the remote agent network*), and see also ¶0060, wherein Szlam discloses the RAC and the CC are one and the same; see also ¶0043).

8. In respect to claim 2, Szlam further discloses the step of providing access to the one or more client users to a labor exchange that enables the one or more client users, to (a) record eligibility requirements for selection of remote agents as part of the client user dedicated pool; (b) define the contents of forms to be completed by remote agents in order to be eligible for selection as part of the client user dedicated pool; and (c) review the contents of the forms as part of a decision whether or not to select a particular remote agent as part of the client user dedicated pool (see at least ¶0027-¶0035 wherein Szlam discloses the forms are reviewed by an automated system to determine the potential remote agent's qualifications, the RAC can verify the qualifications, and the RAC specify a set of tests for a prospective agent, and wherein Szlam further discloses the needs of the RAC (*i.e. record eligibility requirements for selection of remote agents as part of the client user dedicated pool*), ¶0037 wherein Szlam discloses that the RAC then places the agent into the agent resources pool, see also ¶0041, wherein Szlam

discloses the RAC performs the action of acting as a clearing house or agent center (i.e. *labor exchange*); ¶0045; also see ¶0060 wherein Szlam discloses the RAC and the CC are one and the same).

9. In respect to claim 5, Szlam further discloses the step of providing secure access to remote agents selected as forming part of the client user dedicated pool to one or more client user call center applications and related client user data in support of the provision of service communications by the dedicated pool of remote agents (see at least ¶0042 and ¶0043, wherein Szlam discloses synchronous contacts are live connections between a remote agent and a customer during which the remote agent transacts business. In the synchronous contact environment, the agents may be permanently connected to the contact center via the communications network for the duration of the campaign. The assigned agents appear to be part of the contact center (i.e. *providing secure access to remote agents*)).

10. In respect to claim 6, Szlam further discloses the step of enabling the one or more client users to control the remote agent state on a carrier switch. (¶0042-¶0043, wherein Szlam discloses that the assigned agents appear to be part of the contact center (i.e. *client users are enabled to control the remote agent status*)).

11. In respect to claim 10, Szlam further discloses the step of providing access to the one or more client users and the client user dedicated pool to a payment utility that enables tracking of service communications completed by the client user dedicated pool, billing of completed

service communications to the one or more client users and payment for completed service communications to members of the client user dedicated pool (see at least ¶0082 and ¶0083 and see also ¶0060, wherein Szlam discloses the RAC and the CC are one and the same).

12. Claims **3 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam in view of Jilk et al. (U.S. Patent 7,155,400, hereinafter Jilk).

13. In respect to claim **3**, Szlam discloses comparison of the content of the forms and/or the e-resumes with the eligibility requirements to define a list of potential remote agents for review by the one or more client users (see at least ¶0027, wherein the forms may be reviewed by a personnel supervisor or employment needs person at the RAC).

Szlam does not explicitly disclose soliciting the submission of e-resumes by one or more remote agents in order to be eligible for selection as part of the client user dedicated pool.

Jilk discloses Soliciting the submission of e-resumes by one or more remote agents in order to be eligible for selection as part of the client user dedicated pool; and (see at least column 22, lines 33-38, wherein Jilk discloses if the applicant has not yet supplied his resume information, the applicant also now provides resume information (i.e. *soliciting the submission of e-resumes by one or more remote agents*); see also column 11, lines 17-28 and FIG 4A, wherein Jilk discloses an applicant resume table).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the process of initially evaluating a prospective remote agent of Szlam the resume information as disclosed by Jilk since the claimed invention is merely a combination of old

elements, since they are both in the field of hiring and using remote agents for telecommunication tasks and one of ordinary skill in the art would have recognized that it would produce a predictable result of having more information from which to make a hiring decision.

14. In respect to claim 4, Jilk further discloses comprising the further step of enabling the one or more client users to contact remote agents from the list of potential remote agents to arrange interviews. (see at least Column 22, lines 23-68 through column 23, lines 1-16)

15. Claims 7, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam in view of Cherry (U.S. Patent 6,320,956).

16. In respect to claim 7, Szlam discloses the agents may be permanently connected to the contact center, and the agents appear to appear to be a part of the contact center (see at least ¶0042-¶0043).

Szlam does not explicitly disclose the step of enabling a remote agent to log in to a telephony server and thereby queue to a client user call queue on the carrier switch via a telephony application.

Cherry discloses the step of enabling a remote agent to log in to a telephony server and thereby queue to a client user call queue on the carrier switch via a telephony application (see at least column 4, lines 55-68 through column 5, lines 1-13, wherein Cherry discloses the remote agents computer running two applications, the second application is a direct connection to the call center client's transactional computer for call processing. This may be accomplished using

whatever protocol and terminal emulation is necessary (i.e. *enabling a remote agent to log on*); see also column 6, lines 66-68 through column 7, lines 1 -19).

It would have been obvious to one of ordinary skill in the art to include in the permanently connected synchronous environment of Szlam the computer application that is a direct connection to the call center of Cherry since the claimed invention is merely a combination of old elements, since they are both in the field of using remote agents for telecommunication tasks and one of ordinary skill in the art would have recognized that it would produce a predictable result predictable result of using the computer application to facilitate the permanent connection of the remote agents to the call center.

17. In respect to claim 8, Szlam further discloses comprising the further step of authenticating the remote agent before permitting the remote agent to log on to the telephony server (see at least ¶0035, wherein Szlam discloses log on to the RAC).

18. In respect to claim 9, Szlam does not explicitly disclose the step of loading computer programming on a client computer associated with a remote agent, the computer programming being configured to create a secure partition between client data accessed by the remote agent and the hard drive of the client computer

Cherry discloses the step of loading computer programming on a client computer associated with a remote agent, the computer programming being configured to create a secure partition between client data accessed by the remote agent and the hard drive of the client computer (see at least column 4, lines 55-68, wherein Cherry discloses agents computer running

two applications (i.e. *loading computer programming on a computer associated with a remote agent*)).

It would have been obvious to one of ordinary skill in the art to include in the permanently connected synchronous environment of Szlam the computer application that is a direct connection to the call center of Cherry since the claimed invention is merely a combination of old elements, since they are both in the field of using remote agents for telecommunication tasks and one of ordinary skill in the art would have recognized that it would produce a predictable result predictable result of using the computer application to facilitate the permanent connection of the remote agents to the call center.

Conclusion

19. The prior art made of record and not relied upon considered pertinent to Applicant's disclosure.

- a. Levy et al. (U.S. Patent 5,291,550) discloses a dynamic network call center.
- b. Koenig et al. (U.S. Patent 5,586,178) discloses an interface for automatic call distributor for performing agent functions via host computer.
- c. Otto (U.S. Patent 5,703,943) discloses completion of calls to a preferred agent in an automatic call distributor.
- d. Hartman et al. (U.S. Patent 5,758,324) discloses a resume storage and retrieval system.
- e. Nishidate (U.S. Patent 6,704,411) discloses a system and method for realizing home agent client functions for a call center system.

f. Falcon et al. (U.S. Patent 6,934,379) discloses a multiple client remote agent network method.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN MILLER whose telephone number is (571)270-5288.

The examiner can normally be reached on Mon - Thur, 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BRADLEY BAYAT can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. M./
Examiner, Art Unit 3624

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624